

ST 00-0219-GIL 10/18/2000 EXEMPT ORGANIZATIONS

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, charitable, or a governmental body receive an exemption identification number ("E" number) and are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. See 86 Ill. Adm. Code 130.2005. (This is a GIL).

October 18, 2000

Dear Mr. Xxxxx:

This letter is in response to your letter dated August 26, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Does a 'not for profit' association of professionals in Illinois, need to charge sales tax on pamphlets sold to its members. Could you give us some direction.

Also, would you please send us the forms necessary to apply for the sales tax exemption number.

Organizations that make application to the Department of Revenue and are determined to be exclusively religious, educational, charitable, or a governmental body receive an exemption identification number ("E" number). See the enclosed copy of 86 Ill. Adm. Code 130.2007. This number evidences that the Department recognizes the organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. If an organization does not have an E number, then its purchases are subject to tax. Organizations that are recognized as non-profit under Internal Revenue Code Section 501(c)(3), are not necessarily exempt organizations pursuant to Illinois tax law. Such organizations must obtain an Illinois E number to qualify. Please be aware that only sales to organizations holding the E number are exempt, not sales to individual members of the organization.

Nonprofit country clubs, boat clubs, employees' clubs or organizations and other nonprofit social, athletic or recreational organizations, lodges, patriotic organizations, fraternities, sororities, professional and trade associations, civic organizations, labor unions and other nonprofit organizations are not considered to be exclusively charitable, religious or educational and are consequently liable for Retailers' Occupation Tax when selling tangible personal property at retail to members, guests or others. See the enclosed copy of 86 Ill. Adm. Code 130.2005. Professional associations do not generally qualify for E numbers.

Organizations that have E numbers are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in the enclosed copy of 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4). If an organization does not have an E number, then its sales will be subject to Retailers' Occupation Tax liability.

An exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities (two fundraisers a year) without incurring Retailers' Occupation Tax liability. In regard to sales to members, please note that the population to which sales are made is limited to persons specifically associated with that exempt organization and must be for the primary purpose of the selling organization. If such sales are made to the public at large the selling activity is subject to the Retailers' Occupation Tax. See section 130.2005(a)(2) through (a)(4).

Whether the sales are for the primary purpose of the selling organization depends upon the nature of the tangible personal property sold and how that tangible personal property is used. For example, if a religious organization sells literature or other items of tangible personal property that would place them in competition with religious bookstores, the sales generally would not be primarily for the purpose of the selling organization. However, sales of choir robes or like tangible personal property to their members would generally be primarily for the purpose of the selling organization. We urge these organizations not to be cavalier in determining the nature of their sales.

Occasional dinners, socials or other similar activities that are conducted by an exempt organization are not taxable, whether or not such activities are open to the public. Section 130.2005(a)(4)(A), enclosed, states that this exemption extends to occasional dinners, carnivals, bazaars and the like. For purposes of this exemption, "occasional" means not more than twice in any calendar year. Further, the regulations provide that where more than two events are held in any calendar year, the organization or institution may select which two events held within that year will be considered exempt. Once the organization or institution has made the selections, the selections cannot be changed. All other events in that year will be considered taxable. Please see the enclosed copy of 86 Ill. Adm. Code 130.2005(a)(4)(B).

Further, if organizations engage in ongoing selling activities, such as Little League concession stands, sales of items in a thrift shop run by a church, or more than two sales a year, the organization must also register with the Department as retailers, file returns and remit tax. Such organizations must provide their suppliers with Certificates of Resale when making purchases for resale. Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405(b), copy enclosed.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.